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REMARKS/ARGUMENTS

Reconsideration and re-examination of Claims 1-4 and new Claim 5 is respectively requested. The Claims 1-4 have been rejected by the Examiner under U.S.C. 35 § 102 as being anticipated by Schröder et. al. (USPN 6,705,966). Schröder et. al. disclosed a "differential gearing" arrangement with a friction clutch continuously engaged between at least two members of the differential gearing. Schröder et. al. does suggest that the friction clutch can be disengaged by temperature sensitive devices if the friction clutch becomes overheated. However, it would appear that as the clutch begins to disengage, it would cool and never fully disengage or would almost immediately re-engage because it would cool quickly when the frictional heating phenomenon is no longer present. In any event the clutch, as disclosed, in Schröder et. al. is normally engaged. This engagement is required to establish a locking differential system.

The present invention as defined in Claims 1 – 5 is a normally disengaged torque transmitting device with means for selectively activating the active damper when a change in lash condition is anticipated by the control means. Lash conditions in the planetary gearing change, for example, during ratio changes, or drive to coast conditions.

The control means is defined in the specification (paragraphs 19-20) as conventional electronic control unit (ECU). As is well-known in the art of transmission controls, the ECU includes a programmable digital computer.

Accordingly, Schröder et. al. does not provide the same elements combined in the same manner to provide the same result as required by U.S.C. 35 § 102. see Schroeder v. Owens-Corning Fiberglas Corp., 185 USPQ 723 at page 725.

Schröder et. al. does have a clutch disposed between tow gear elements, however, the clutch is normally engaged so as to be operable during a speed change between the gear elements which is typical of "locking differentials" but would not be useful in a conventional planetary transmission where relative motion is generally required between the gear elements. In such a transmission, the clutch of Schröder et. al. would always be overheated since relative rotation is always present except during a direct drive, which is precisely why the system of Schröder et. al. works. Differentials operate mostly in a direct or one to one drive condition.

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In view of the above amendments and remarks, this application is believed to be
in condition for allowance, which is herewith respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald F. Scherer", is written over a horizontal line.

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